No. 80-435

Supreme Court, U. S.
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In The

Supreme Court of the United States

October Term, 1980

VALTEK, INC. and ALPHA ENGINEERING CO.,

Petitioners,

vs.

CONTROL COMPONENTS, INC. and RICHARD E. SELF,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

OPPOSITION TO MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

ROLAND T. BRYAN
BRYAN & BOLLO, P.C.
Attorneys for Respondents
Two Landmark Square
Stamford, Connecticut 06901
(203) 359-4358

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The Patent Law Association of Chicago ("PLAC") has moved this Court for leave to file a brief as amicus curiae in support of the petition. Intervention of this Court is sought for purposes of urging this Court to resolve perceived conflict in the circuits regarding the question of whether obviousness of an invention under 35 U.S.C. §103 is a question of law or fact. Respondents Control Components, Inc. and Richard E. Self object to the filing of the proffered brief as it does not address the question presented in the petition.

Petitioners assert that meaningful devotion to *Graham v. John Deere Co.*, 383 U.S. 1 (1966), requires a verdict on special interrogatories rather than the general verdict permitted by the petitioners in the trial court. In sum, petitioners request that this Court mandate a new procedure to obtain findings of fact in patent jury cases.

There is no issue before the Court as to whether patent validity is a question of law or fact. It was not raised before the district court or the court of appeals. Moreover, as the jury and the judges all agreed that the invention was unobvious, the issue raised by PLAC is not present. There is no error in the record of improper use of the *Graham* standard.

PLAC here seeks an impermissible advisory opinion from this Court. Respondents urge that this Court deny PLAC leave to file a brief as amicus curiae.

Respectfully submitted,

s/ Roland T. Bryan
BRYAN & BOLLO, P.C.
Attorneys for Respondents